



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/591,219

08/31/2006

Benjamin Murphy

9483b

6390

21905 7590 12/26/2008
CONNORS ASSOCIATES
1600 DOVE ST
SUITE 220
NEWPORT BEACH, CA 92660

EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

12/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,219	Applicant(s) MURPHY, BENJAMIN	
	Examiner HANH V. TRAN	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/08 & 11/17/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application in response to the communication filed on 8/31/2006.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claims 31 and 32 of the shelf attached to both panels and a vertical upright must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 27 and 38 are objected to because of the following informalities: (1) claim 27, each lines 3 and 4, "pair of" should be "a pair of", (2) claim 38, line 11, "form" should be "from". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 11-12, 14, 16-81 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,659,295 to De Land et al.

De Land et al discloses a modular storage system comprising all the elements recited in the above listed claims including at least one pair of panels being spaced apart and connected to a support structure, a plurality of panel clips, a horizontal shelf, at least one cabinet, at least one door, at least one face frame, a molding, signage, a pair of spaced apart rail members, each mounted on a substantially vertically oriented support structure in a substantially horizontal orientation, a third panel between the pair of panels, each rail member having an elongated body member having opposed ends, each end including a connector element of a pair of spaced apart prong elements interacting with a vertical upright to detachably connect the rail member to the vertical upright, a shelf manager attachment detachably connected to a rail, a gondola having a base and a plurality of uprights in a row extending from the base at an angle of

Art Unit: 3637

substantially 90 degrees and including a series of indexing sites positioned in an equally spaced apart sequence, a back panel having a mounting member fixedly attached to an exterior surface of the back panel.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 9-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Land et al in view of USP 3,713,257 to Beavers.

De Land et al discloses all the elements as discussed above except for the modular storage system including a drawer, a drawer front, at least one bin.

Beavers teaches the idea of providing a modular storage system with at least one drawer, a drawer front, and at least one bin in order to provide many furniture variations to meet the particular needs of a room area. Therefore, it would have been obvious to modify the structure of De Land et al by providing the modular storage

Art Unit: 3637

system with at least one drawer, a drawer front, and at least one bin in order to provide many furniture variations to meet the particular needs of a room area, as taught by Beavers, since both teach alternate conventional modular storage system structure, used for the same intended purpose, thereby providing structure as claimed.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Land et al.

De Land et al discloses all the elements as discussed above except for the modular storage system including lightning. However, it is well known in the art to provide a modular storage system with illumination means in order to improve the display or working area. Therefore, it would have been obvious to modify the structure of De Land et al by providing the modular storage system with lightning in order to illuminate and improve the modular storage system.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eich et al, Baloga et al, Howard, Merl, and Sorensen all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

December 22, 2008

/Hanh V. Tran/

Primary Examiner, Art Unit 3637